

9w

MC-275

Name James Fleetwood Hundy  
 Address Pelican Bay State Prison  
CS-106 \* P.O. Box 7500  
Crescent City, CA 95532  
 CDC or ID Number J. 74235

FILED  
 FEB 22 2008  
 RICHARD W. WICKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 530

U.S. District  
Court House  
 (Court)

## PETITION FOR WRIT OF HABEAS CORPUS

<u>James Fleetwood Hundy, Jr.</u>	
Petitioner	vs.
<u>Director of Corrections (CDCR)</u>	
Respondent	<u>Warden Robert A. Hore (PSSR)</u>

CV 08

1096

(To be supplied by the Clerk of the Court)

PJH

(PR)

## INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

448-1096-177H

## This petition concerns:

- ☐ A conviction
 ☐ Parole  
☐ A sentence
 ☐ Credits  
☒ Jail or prison conditions
 ☐ Prison discipline  
☐ Other (specify): \_\_\_\_\_

1. Your name: James Fleet Wood Humely
2. Where are you incarcerated? Pelican Bay (Shu) State Prison
3. Why are you in custody? ☐ Criminal Conviction ☒ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

I've not been allow to have a Kosher diet or been granted the right to transfer to a Prison That does Provide Jewish needs

- b. Penal or other code sections: 3054.2 Jewish Diet (a)(b)(d)(e)

- c. Name and location of sentencing or committing court: not applicable

- d. Case number: IAB: 0702289 Local Log# PBSP 07-009933

- e. Date convicted or committed: not applicable

- f. Date sentenced: not applicable

- g. Length of sentence: not applicable

- h. When do you expect to be released? not applicable

- i. Were you represented by counsel in the trial court? ☐ Yes. ☐ No. If yes, state the attorney's name and address:

not applicable

4. What was the LAST plea you entered? (check one)

☐ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

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## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

california of Corrections Rehabilitation Center - and warden Horel at Pelican Bay State Prison denies me the right to practice my first Amendment freedom by not allowing Jewish inmates to kosher meals Throughout The Year, no accommodations met <sup>continue</sup> →

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

my first attempt of resolve was through Prison chaplain Bliesner (3-25-07) stated my Bread issues should be worked out with the food manager which I took to be offensive referring to the feast of Unleaven Bread, Brian Adams the food manager mention I once used the Veggie diet system before he suggested I wanted special treatment, it was a time before I converted to the Jewish faith (House of Yahweh) refer me back to the chaplain and offered the Veggie diet once more I decline because meat is often required during the feast of unleaven bread as well as vegetables, the 602 Process I later began with Sgt Berry and Warden Horel Cpt, Foss Assoc. warden Cook, and The Director of Corrections whom <sup>partially</sup> ~~completely~~ granted my arguments to Pass the Buck, no accommodations made still no transfer, no Jewish Rabbi to over see the members of the

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Buckhannon v. W. Virginia Dims. 532 U.S. 598, 609 (2001).  
Turner v. Safely, 482 U.S. 78, 89 (1987) ~ Fulbright v. Jones  
U.S. D.C W.D, OKLA, 2006 WL 222807 Africa v. Commonwealth  
of Pennsylvania, 662 F.2d 1025 (3d Cir. 1981); Love v. Reed →



continue from ground 1. It's been merely a year and there's been no committee classification and although a transfer was considered it was not granted, nor was a Jewish Rabbi who could oversee the feast and feasts of members of the House of Yaffwell. Members has not been added with the feast of unleavened bread approaching there's great need for a transfer to a facility that has Jewish Rabbis and, or a system that set in place. pg 3. of 6 grounds for relief

2. supporting facts. The members of the House of Yaffwell I'm only left with the conclusion that C.D.C.R. does not ~~recognize~~ <sup>Recognize</sup> the difference's between faith's, and in Pelican Bay State Prison that doesn't have a program for Jews but every other religion is unjustifiably denying me the right to go to a institution that does. fact that I don't have a rabbi here after a whole year. fact they continue <sup>not to</sup> accommodate me a transfer. no efforts has been made make meals. nothing. pg. 3. of 6

b. supporting cases, rules, or other authorities

f, 3d 682 (8th cir 2000) LAfevers v. saffle, 936  
f. 2d 1117 (10th cir. 1991) montano v. Hedgepeth 120 f. 3d  
844 (8th cir. 1997)

pg. 3 of 6

7. Ground 2 or Ground \_\_\_\_\_ (if applicable):

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To Be transferred to an Institution That Provides Jewish inmates Kosher Meals, and have Rabbi ministers that are able to provide recognition and Blessing for the House of Yehwell members,

## a. Supporting facts:

The Prison Chaplain Blesner stated with offensive tone that I should ~~do~~ workout my Bread concerns with food service Department referring to the feast of heaven and Unleaven Bread. I later recieved a memorandum 4-10-07 from Brian Adams Correctional facil Management. Another response began within the Prodcess of Appeal partially granted by Warden whom also seem to say There's no Program for Jews with kosher religious beliefs and Transfor options would or could be requested at Committee and I was later detain in PBSP (shu) no Accomodations met and 2 month ceeray feast of Unleaven is approaching. Director is claiming at his level They are doing there best to obtain a Jewish Rabbi to Bless and otherwise Over see our events Nothing has happen in Over a year and I've Been ~~denied~~ given a Partial grant leaving Jewish inmates in limbe Missing The Most important religious Feastibles and rituals Through The Year.

## b. Supporting cases, rules, or other authority:

3054.2. Jewish Diet (a) (b) (d) (e) 3054.3. Participation in a religious Diet Program. <sup>Fulbright v. Jones</sup> (2) V.S. D.C W.D, OK 19, 2006 WL 222807 Turner v. Safety, 482 U.S. 78, 89 (1987) ~~Fulbright v. Jones~~ love v. Reed, 216 F.3d 682 (8th cir. 2000) Buckhannon v. W. Virging DIM S. 532 U.S. 598, 609 (2001).

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

b. Result \_\_\_\_\_ c. Date of decision: \_\_\_\_\_

d. Case number or citation of opinion, if known: \_\_\_\_\_

e. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

f. Were you represented by counsel on appeal? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes ☐ No. If yes, give the following information:

a. Result \_\_\_\_\_ b. Date of decision: \_\_\_\_\_

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

Formal level was passed due to verbal agreement with  
The Chaplain, Food Manager, Sgt. Berry Cpt Foss warden  
Morel.

b. Did you seek the highest level of administrative review available? ☒ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

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12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or **issue** in any court? ☐ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: not applicable  
 (2) Nature of proceeding (for example, "habeas corpus petition"): not applicable  
 (3) Issues raised: (a) not applicable  
 (b) \_\_\_\_\_  
 (4) Result (Attach order or explain why unavailable): not applicable  
 (5) Date of decision: not applicable
- b. (1) Name of court: not applicable  
 (2) Nature of proceeding: not applicable  
 (3) Issues raised: (a) not applicable  
 (b) \_\_\_\_\_  
 (4) Result (Attach order or explain why unavailable): not needed  
 (5) Date of decision: \_\_\_\_\_

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

not applicable

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

not applicable

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

no counselor But I'd ~~no~~ would prefer a counselor I'm indigent and do not have full knowledge of the law

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

no

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

no

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 2-11-08

James Hendry Jr  
 (SIGNATURE OF PETITIONER)



**INMATE/PAROLEE  
APPEAL FORM**  
CDC 602 (12/87)
Location: Institution: **IPBSP CAN BAY STATE PRISON**Log No. **5-08-0093**Category: **115**1. **SECURITY HOUSING UNIT**2. **UNIT 106**

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
James Humdy	J-74235*		106/106*

A. Describe Problem: I have establish myself as a (Yadiah) Jew or hebrew etc.. and since then I have not been given my religious rights or freedoms. I've Taken every necessary step and formality to seek some sort of relief further's my rights (1st amendment, with amendment) under The turner Rule, as well as The (R.F.R.A) religious freedom act rule. E(RLUIPA) religious land-use-and-institutionalized-person-act Rule. I am follower of The house of Yahuweh located in Abilene, Tx a Jewish (Yadiah) sect that believes fully in The messiah The son of Yahuweh, "Yashua Messiah" and I fully believe that "Yeshua" died for mankind sins and that in following "Yahuweh laws" (613 - 248 + positive commandments + 365 prohibitions) I will be in accordance with good honorable congregations of The seven churches of The house of Yahuweh

If you need more space, attach one additional sheet.

B. Action Requested: ① I simply ask That Pelican Bay Prison recognize Hebrew's rights to celebrate all of it's holidays and feasts and The correctional food manager accommodate the food and diets that's required, rather in general population or shu, ads-ed. ② to either be transferred to a correctional facility that does recognize "Yahuweh" elect people. ③ to not otherwise be retaliated against or reprisal been met against →

Inmate/Parolee Signature: James HumdyDate Submitted: 4-12-07

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

notice informal

**BYPASS**

By Passed

And

 RECEIVED  
JUL 18 2007  
INMATE APPEALS  
BRANCH

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

formal level been met

**BYPASS**

By Passed

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: \_\_\_\_\_

Board of Control form BC-1E, Inmate Claim

APR 16 2007

APR 20 2007

JUN 01 2007

um 26

1st AW-6P

2nd APPEALS

S



First Level ☐ Granted ☒ P. Granted ☒ Denied ☐ OtherE. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 4-20-07 Due Date: 6-04-07

Interviewed by: \_\_\_\_\_

Staff Signature: [Signature] Title: 565 Date Completed: 5-15-07Division Head Approved Signature: [Signature] Title: Aug 10 Returned: \_\_\_\_\_Signature: \_\_\_\_\_ Date to Inmate: MAY 29 2007

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Although accommodations are in Progress, I would simply like to be Place in a Facility that establish with hebrew accommodations such as my own. "Yachiam" for which hebrew's except's Yashua as the One and only true savior. The house of Yaltwelt "is establish in 6 other Prisons. I like to go there

Signature: James Hundy Date Submitted: 5-31-07Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ OtherG. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 6-1-07 Due Date: 6-29-07☒ See Attached LetterSignature: B. Lamples, CCR Date Completed: 6-25-07Warden/Superintendent Signature: [Signature] Date Returned to Inmate: 7-9-07

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

dissatisfied because a Partially Grant does absolutely nothing to accomodate my religious needs which are INFACT ANNUALLY, in a partial grant in this case only establish Promise with no results. I'd like to be Granted The rights to all feast and festival's of my faith (Yachiam) which is a Jewish sect. or Transferred To and active facility that fully establish accommodations.

Signature: James Hundy Date Submitted: 7-15-07

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other☒ See Attached Letter

OCT 14 2007

Date: \_\_\_\_\_

special diets. Special religious diets often raise questions related to the Establishment Clause, which prohibits endorsement of one religion above others. Courts have often required prison to accommodate prisoners' religious diets, but usually allow them to do so in a way that is least costly for them. *Ashelman v. Wawrzaszek*, 111 F.3d 1179 (10th Cir. 2002); *Harkin v. Colorado Dept of Corrections*, 183 F.3d 1205 (10th Cir. 1999). The first amendment protects my right under free Exercise Clause. Establish Clause The fourth amendment says that the government cannot discriminate against me or treat me poorly because of my religion. The religious freedom Restoration Act (R.F.R.A.)

The (R.L.U.I.P.A) religious - land - use - and - Institutionalized - Persons Act rule see *may weather's v. Newland*, 314 F.3d 1062 (9th Cir. 2002); *Charles v. Verhagen* - f.3d. NO. 02-3572, 2003 WL 22455960 (7th Cir. Oct. 30, 2003). *Madison v. Riter*, 240 F.supp.2d 566 (W.D. Va 2003); *Cutter v. Wilkinson* f3d, 2003 WL 22513973 (6th Cir. Nov. 7, 2003).

### — Scriptural Reverences —

#### Torah or Holy scriptures, Bible

- 189 -
- Do not eat any bread in celebration of the feast until the Omer offering has been presented to the Priest at the beginning of The 15th of ABIB, Leviticus 23:14, 10
- Do not eat any parched grain in celebration of the feast until the omer offering has been presented to the Priest's at the beginning of The 15th of ABIB. Leviticus 23:14 - 190 -
- Do not eat of the fresh green ears in celebration of The feast until the Omer offering has been presented to The Priest's at The beginning of The 15th of ABIB. Leviticus 23:14 - 191 -
- Do not eat leaven bread during The feast of Unleavened Bread. Exodus 13:3 - 197 -
- Do not eat any leavened product during The feast of Unleaven Bread Exodus 12:20 198 -
- Do not eat leaven bread with PassOver lamb. Deuteronomy 16:3 - 199 -
- No leavened bread is to be found in any of our possessions during The feast of unleaven Bread Exodus 13:7 - 200 -
- No leaven is to be found in any of our possessions during The feast of Unleavened bread. Exodus 12:19 - 201 -
- Remove all leaven from all your property before The 15th of Abib Exodus 12:15 56.

EAT unleaven bread from The 15th Through The 21st of Abib. Exodus 12:18  
Continue B. Action - Requested. From 602 K

PELICAN BAY STATE PRISON  
SECURITY HOUSING UNIT  
UNIT C-5

My Person(s),

Please Consult The House of Yathuett For  
Calendar Events and any Question on Yathuett  
Feast(s) -  
1-800-613-9494

Hello I am a Yachiam (Jew) in Israel who's celebrating  
 his feast of Unleaven Bread and I cannot continue to Pass up  
 trays for The feast is until April 21st The feast is a Very  
 important celebration for it is a sign that gives recognition  
 Jews to Yathwell our Heavenly Father who brought us out  
 of Egypt. I request simply SECURITY HOUSE UN any kind, or bread  
 are grain. are green ears any green vegetables IF I have  
 to I will eat Beans and cheese meat until 15th  
 of ABIB Then simply unleaven bread example corn tortillas  
Flour tortillas paste rice. You can call This number  
 1-800-613-9494 a direct toll free line to the  
 Honorable Yishayl Hawkins at The house of Yathwell  
 elder and poster of The pillar and Ground of The  
 Truth. My verification of such a title.

I've also wrote The Chaplain  
 and He explain that no accommodations  
 will be met, and Just need your input /  
 Before GOMB further into this situation!

Thank You and May Yathwell  
 Bless You Understanding

James Humby JW235

ASU/B6\*

4-05-07



March 25, 2007

PELICAN  
SECURITY  
UNIT 03  
TE PRISON  
ING UNIT

James, you must work out your bread concerns with the Food Service Department. I do not have anything to do with the food served on the menu. You were at one time receiving a the Special Religious Diet but now you are on the standard try and Food service controls the menus.



Chaplain Bliesner

informal  
level

State of California

**Memorandum**

Date: April 10, 2007

To: James Humdy, J74235

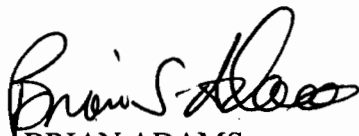
From: Department of Corrections and Rehabilitation  
Pelican Bay State Prison, P.O. Box 7000, Crescent City, CA 95532-7000

Subject: **SPECIAL ACCOMMODATIONS**

In respond to your letter dated April 5, 2007, Pelican Bay State Prison does not have a kosher program. The only program available is a vegetarian religious diet which you no longer participate in the program. I can not meet the individual needs of each inmate and this request is considered a personal preference. I recommend that you contact the Chaplain if you would like to go back on the vegetarian diet.

There are other institutions with the Kosher Programs in place and if you are qualified you may request to be transferred to such an institution.

Thanks you and if you have any questions feel free to contact me at 9096.



BRIAN ADAMS  
Correctional Food Manager I  
Food Service Department

Attachments

formal level

PELICAN BAY STATE PRISON  
SECURITY HOLDING UNIT  
UNIT C-5

**FIRST LEVEL SUPPLEMENTAL PAGE**

**RE:** PELICAN BAY STATE PRISON  
Appeal Log # **PBSP-S07-00933**  
First Level Reviewer's Response

**PELICAN BAY STATE PRISON**  
**SECURITY HOUSE UNIT**  
**UNIT C-5**

**INMATE:** HUMDY, J-74235

**APPEAL DECISION:** PARTIALLY GRANTED

**APPEAL ISSUE:** (modified)

You request that Pelican Bay State Prison (PBSP) recognize the rights of Hebrews to celebrate their holidays and to accommodate the food and diet that is required, or to be transferred to an institution that does recognize your religion. You also request not to be retaliated against for filing this appeal.

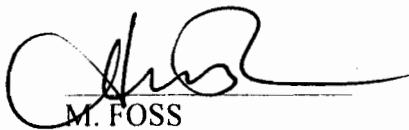
**APPEAL RESPONSE:**

On May 5, 2007, Correctional Sergeant R. Berry attempted to conduct an interview with you concerning the contents of your appeal. During the interview you stated that you wished to continue with this appeal. A review of your Appeal has been completed. Your requested modifications and accommodations have received careful consideration.

The California Department of Corrections and Rehabilitation (CDCR) respects the religious beliefs of all inmates, and does not discriminate because of religion. PBSP does not currently have a Jewish Rabbi on staff, but is actively seeking a candidate for the position. The Jewish Kosher Program cannot be administered unless it is supervised by a Rabbi. Chaplin Bliesner can put you in contact with an outside Rabbi to accommodate your religious holidays. During your Institutional Classification Committee you can request a transfer to an institution that currently has a Rabbi on staff. It is the policy of the CDCR not to retaliate in any way against an inmate that files an appeal.

**DETERMINATION OF ISSUE:**

Based upon the above information your appeal is **PARTIALLY GRANTED** at the first Level of Review. You have the right to appeal this decision to the next level per the CCR, Title 15, Section 30841.1(a).



M. FOSS  
Facility Captain  
Facility B

5-24-07

Date



M. A. COOK  
Associate Warden  
General Population

5-25-07

Date



PELICAN BAY STATE PRISON
SECOND LEVEL REVIEW

DATE: JUL 02 2007

Inmate HUMDY, J-74235  
Pelican Bay State Prison  
Facility C, Security Housing Unit  
Building 5, Cell 106

RE: WARDEN'S LEVEL DECISION  
APPEAL LOG NO. PBSP-S-07-00933

APPEAL: PARTIALLY GRANTED  
ISSUE: LIVING CONDITIONS

This matter was reviewed by ROBERT A. HOREL, Warden, at Pelican Bay State Prison (PBSP). Correctional Sergeant R. Berry interviewed the inmate on May 5, 2007, at the First Level of Appeal Review.

#### ISSUES

Inmate Humdy requests to be served a Jewish kosher diet and to have no reprisals taken against him for having filed the appeal.

#### FINDINGS

##### I

The inmate requests to be served a Jewish kosher diet on all religious holidays or be transferred to an institution where such a diet can be provided.

##### II

The California Code of Regulations (CCR), Title 15, Section 3054 (a), states each institution shall make *reasonable efforts*, as required by law, to accommodate those inmates who have been determined pursuant to CCR, Title 15, Section 3054.3 (b) (1), to require a religious diet.

The CCR, Title 15, Section 3054 (e), states there shall be at least two distinct religious diet options: vegetarian and Jewish kosher.

The Departmental Operations Manual, Article 51, Food Service, Section 54080.14, states if a Jewish inmate is housed at an institution that does not have a Jewish kosher diet program, he may upon request, be considered for transfer to another institution that meets their kosher need and classification.

#### DETERMINATION OF ISSUE

PBSP is currently putting forth reasonable efforts to recruit a full-time Jewish Chaplain via the California Department of Corrections and Rehabilitation and the State Personnel Board's Vacancy

Supplement Page 2

HUMDY, J-74235

Appeal # PBSP-S-07-00933

Lists to allow for the religious and spiritual welfare of all Jewish inmates. Meanwhile, the Jewish inmates housed at PBSP are limited to resources provided by the Aleph Institute, since a Jewish kosher diet cannot be administered without being supervised by a Rabbi.

The inmate is currently housed in the Security Housing Unit on an indeterminate basis and is scheduled for a 180-day review in November 2007, during which time he may request to be transferred to an institution where a Jewish kosher diet is provided. Additionally, reprisals will not be taken against the inmate as a result of filing the appeal; therefore, the APPEAL IS PARTIALLY GRANTED.

#### MODIFICATION ORDER

No modification of this action or decision is required.

  
ROBERT A HOREL  
Warden

BDS #60 6-25-07

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **OCT 14 2007**

In re: Humdy, J-74235  
Pelican Bay State Prison  
P.O. Box 7000  
Crescent City, CA 95531-7000

IAB Case No.: 0702289

Local Log No.: PBSP 07-00933

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner R. Pimentel, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that the Pelican Bay State Prison (PBSP) is inappropriately refusing to provide him religious accommodations relative to meal service. The appellant contends that due to his religious practices he must be served a kosher meal. The appellant requests to be provided kosher meals, or to be transferred to another institution that has kosher meals, and that no retaliation be taken against him.

**II SECOND LEVEL'S DECISION:** The First Level of Review informed the appellant that PBSP does not have a rabbi on staff, but the PBSP is actively canvassing to hire one. The Second Level of Review (SLR) advised the appellant that the Aleph Institute was contacted relative to assisting PBSP provide religious services for the inmate population. The SLR noted that the PBSP resources are limited relative to kosher meals and that there is not a rabbi on staff to oversee a kosher meal program. The SLR noted that the appellant's case factors are pending review at his annual review and at that time his request for transfer will be considered. The SLR partially granted the appeal.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** The documentation and arguments are persuasive that the appellant has failed to support his appeal issues with sufficient evidence or facts to warrant a modification of the SLR. The Director's Level of Review (DLR) finds pursuant to California Code of Regulations, Title 15, Section (CCR) 3054 "(a) Each institution shall make reasonable efforts, as required by law, to accommodate those inmates who have been determined, pursuant to CCR, Title 15, subsection 3054.3(b)(1), to require a religious diet." The DLR notes that the key words are "reasonable efforts." The DLR notes that the PBSP religious staff has contacted an outside institute of the Jewish faith to provide assistance to the inmate population of that faith. The appellant argues that this is insufficient; however, the PBSP has provided the appellant an articulate response that additional measures are not possible. The appellant was advised that a full time kosher meal program cannot be accomplished at PBSP because there is not rabbi on staff to oversee the process. The PBSP is making reasonable attempts to hire a rabbi, but in the interim the Protestant Chaplain serves as the Jewish advisor. The appellant was informed that during his annual review he may be request transfer to another institution. Therefore no relief is provided at the DLR.

**B. BASIS FOR THE DECISION:**

CCR: 3000, 3001, 3050, 3054, 3054.1, 3054.3, 3054.4, 3084.2, 3210, 3380  
CDC Operations Manual Section: 54080.14

**C. ORDER:** No changes or modifications are required by the institution.



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This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, appearing to read "N. Grannis", is positioned above the typed name.

N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, PBSP  
Appeals Coordinator, PBSP

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P.O. BOX 7500  
CRESCENT CITY, CA 95532

NAME: James Huneby  
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